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Reza Serafat

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Ditthavong Mori & Steiner, P.C.
918 Prince Street
Alexandria, VA 22314

EXAMINER

HENRY, THOMAS HAYNES

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/538,258
Filing Date: June 09, 2005
Appellant(s): SERAFAT, REZA

Phouphanomketh Ditthavong
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 3/15/11 appealing from the Office action mailed 7/14/10.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The following is a list of claims that are rejected and pending in the application:

Claims 1-10, 14, 16, 17, and 20-26

(4) Status of Amendments After Final

The examiner has no comment on the appellant's statement of the status of amendments after final rejection contained in the brief.

(5) Summary of Claimed Subject Matter

The examiner has no comment on the summary of claimed subject matter contained in the brief.

(6) Grounds of Rejection to be Reviewed on Appeal

The examiner has no comment on the appellant's statement of the grounds of rejection to be reviewed on appeal. Every ground of rejection set forth in the Office action from which the appeal is taken (as modified by any advisory actions) is being maintained by the examiner except for the grounds of rejection (if any) listed under the subheading "WITHDRAWN REJECTIONS." New grounds of rejection (if any) are provided under the subheading "NEW GROUNDS OF REJECTION."

(7) Claims Appendix

The examiner has no comment on the copy of the appealed claims contained in the Appendix to the appellant's brief.

(8) Evidence Relied Upon

Unreal Tournament 2003 (video game) as evidenced by unreal tournament 2003 PC manual and <http://theadminpage.planetunreal.gamespy.com/Non-DedicatedLAN.htm> by MutantKiller

US 6024643

Begis

1-2001

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

1. Claims 1, 2, 6, 7, 9, 10, 14, 17, 18, 20, and 23 are rejected under 35 U.S.C. 102(b) as being anticipated by Unreal Tournament 2003 (game) as evidenced by Unreal Tournament 2003 Game Manual and theadminpage.planetunreal.gamespy.com. (relied upon as extrinsic evidence only)
2. In re claims 1, 10, 14, 18, and 19 Unreal Tournament 2003 discloses
 - Running on an apparatus of a first player a multi player game application (Game Manual page 9)
 - Causing at least in part, by the apparatus actions that result in reception of an indication that a second player of another apparatus taking part in said multi-player game is absent, and continuing the game by the apparatus as the first player and the second player by at least simulating the participation of said second player who is actually absent (Game Manual page 9. You can set a minimum number of players

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such that if a player drops out of a multi-player match, and the total number of players falls below the minimum number, the player is replaced with a bot. A bot simulates the participation of a player in that it attempts to get kills. This is evidenced by theadminpage.planetunreal.gamespy.com page 5)

Appellant also claims the components necessary to run the method described (such as memory and a processor). (game manual page 2)

3. In re claim 2, Unreal Tournament 2003 discloses a network based multiplayer game (game manual page 9. The internet is a network)

4. In re claim 6, Unreal Tournament 2003 discloses said indication that a player is absent comprises a notification received from said absent player (a player "forfeits" to disconnect from the server as the indication that he is leaving. Game manual page 9)

5. In re claim 7, Unreal Tournament 2003 discloses sending a notification to at least one of said players of said multi-player game said notification comprising an information that the participation of at least one player is actually simulated (when a player disconnects, a new player with a bot name will be added to the score list)

6. In re claim 9, Unreal Tournament 2003 discloses terminating by the apparatus said simulation of the participation if said absent player returns to the game (if the player returns, he will take the place of one of the bots, theadminpage.planetunreal.gamespy.com page 5)

7. In re claim 17, Unreal Tournament 2003 discloses said simulation comprising an artificial intelligence component

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8. In re claims 20 and 23, Unreal Tournament 2003 discloses activating a failsafe option to continue the game when the first player becomes unavailable (the listen server may continue running even if the first player must step away from the computer.)

9. Claims 3-5 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Unreal Tournament 2003 in view of Begis (US 6024643).

10. In re claims 3 and 26, Unreal tournament 2003 discloses the claimed invention except the invention claimed in claim 3, However Begis discloses

- Monitoring by the apparatus the inputs of at least one player of said multi-player game (column 1 lines 5-11)
- Analyzing by the apparatus said inputs to determine gaming characteristics of said at least one monitored player, said gaming characteristics including one or more preferred key input combinations (column 1 lines 5-11)
- Simulating by the apparatus the participation of said monitored player who became absent in correspondence with said determined gaming characteristic (column 2 lines 65-67, column 3 lines 1-12)

It would have been obvious to one skilled in the art at the time the invention was made to combine Unreal Tournament 2003 with Begis in order to allow for a more realistic experience.

11. In re claim 4, Begis discloses simulating said game and a result of said simulated game based on said determined gaming characteristics of said at least one absent

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player (column 3 lines 15-22) and while the game is going on, displaying the rest of the game as simulated at a speed faster than the actual time (column 6 lines 20-45)

12. In re claim 5, Begis discloses transferring said determined gaming characteristics to another gaming device (column 6 lines 36-52)

13. Claims 8, 16, 21, 22, 24, and 25 are rejected under 35 U.S.C 103(a) as being unpatentable over Unreal Tournament 2003.

14. In re claim 8, Unreal tournament 2003 discloses the claimed invention except for interruption of said game if all players are absent. However official notice is taken that stopping a game where all the players are bots was a well known technique. It would have been obvious to one skilled in the art at the time the invention was made to stop the game when all players stopped playing because the game would no longer have any active members interested in the game.

15. In re claims 16, 21, and 22 Unreal Tournament 2003 discloses the claimed invention except for the apparatus and the another apparatus are a mobile telephone. , or that the second player becomes absent due to a wireless disconnection or incoming message or call of the another apparatus However playing first person shooters on mobile telephones was well known in the art at the time the invention was made. It would have been obvious to one skilled in the art at the time the invention was made to combine Unreal Tournament 2003 with this well known gaming device in order to allow for the game to be played on a phone. Furthermore, official notice is taken that the unavailability being caused by answering a call or by a loss of wireless signal is known

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in the art, and it would have been obvious to one of ordinary skill in the art that Unreal Tournament played on a mobile device may cause disconnects for reasons such as these, thus it would have been obvious to allow for the invention described above to be used for disconnects under these circumstances.

(10) Response to Argument

Appellant argues (page 7) that replacing an absent player with a BOT does not correspond to simulating the participation of a second player. Examiner disagrees. In the prior art, a server is created wherein a maximum and minimum number of players may be set. As an example, the server may have a maximum of 8 players and a minimum of 4 players, or even a maximum and minimum of 4 players. With this example, if four players are playing the virtual game, and a player drops out of the game, that player will be replaced with a computer controlled character, known as a bot. Also, if two players are playing, they will be playing with two bots, and if one of those two players were to drop out, that player would also be replaced with a bot. With respect to the bot itself, a bot (in relation to a video game) is a virtual character or enemy which is controlled by artificial intelligence. A bot is equivalent to a computer controlled character. Although appellant argues that a bot does not correspond to simulating the participation of the second player, appellant's simulation is done thru use of a bot (specification page 10 lines 28-31, "The game server 22 will then immediately take over the role of the gaming partner 24, who is going to leave or pause. For this purpose an instance of an artificial intelligence engine of the server can be activated automatically. This instance plays against other game partners 26, 28...") Furthermore,

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a bot, as defined by the free online dictionary of computing is "(From "Robot") Any type of autonomous software that operates as an agent for a user or a program or simulates a human activity."

It is further noted by examiner that "simulating the participation" of a player is extremely broad claim language, and appellant appears to be interpreting the limitation to include limitations which are not claimed. As currently argued by appellant, appellant has never specifically stated what is lacking from the bot. A simulation of participation would not require that the bot act exactly as the previous player had acted, as such, a simulation would merely require that the bot act in some way as the previous player has acted. As noted by examiner in the rejection, the bot is simulating the participation of the player in that the bot is attempting to get kills, as the player would also attempt to get kills. However this is not the only way that the bot simulates the participation. It also simulates moving and many other human activities. The limitation does not require that the simulated participation would be specifically catered to act as only the second player has acted. A generic simulation of a human opponent would broadly simulate the participation of the second player.

The limitations in the independent claims as currently claimed does not require that the bot is skilled the same, performs tasks based on player activity, is of a similar skill level, or is even participating in the game. This limitation is so broad, that if it were not read in light of the specification, the simulation of participation of a player could simply be the lack of the player in the virtual space, as it would be properly simulating the participation of the player, in that the player is not participating.

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With respect to the “replacing” a player with a bot, the way in which the bot is added into the computer game is inconsequential. As currently claimed, the timeline is that player 2 plays a game, and then at some point in time in the future of the game, the participation of player 2 is simulated. This simulation could happen three days later, and the simulation could occur by a bot which has replaced a third player. A method “comprising” the following steps does not limit the invention to only allowing for those steps.

In re pages 9 and 10, as examiner believes the independent claims are properly rejected, examiner believes the dependent claims also are properly rejected. It is further noted by examiner that with Unreal Tournament in view of the Begis reference, Unreal Tournament is capable of creating a bot which acts much more similar to the particular player which the bot has replaced, and as such, Unreal Tournament in view of Begis teach an even narrower reading of the limitations as claimed.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner’s answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/THOMAS H HENRY/

Examiner, Art Unit 3717

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Conferees:

/DAVID L LEWIS/

Supervisory Patent Examiner, Art Unit 3714

/Melba Bumgarner/

Supervisory Patent Examiner, Art Unit 3717